

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

KENNETH KILGORE

PLAINTIFF

v.

Civil No. 6:07-cv-06011

DR. KEVIN HALE

DEFENDANT

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, Kenneth Kilgore, filed this civil rights action pursuant to the provisions of 42 U.S.C. § 1983. He proceeds *pro se* and *in forma pauperis*.

Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3)(2005), the Honorable Robert T. Dawson, United States District Judge, referred this case to the undersigned for the purpose of making a report and recommendation.

Defendant filed a motion for summary judgment (Doc. 21). To assist Kilgore in responding to the summary judgment motion, I entered an order (Doc. 24) directing him to complete, sign and return an attached questionnaire that would serve as his response to the summary judgment motion. Kilgore's response to the questionnaire was to be returned by February 13, 2008.

To date, Kilgore has failed to respond to the questionnaire. Kilgore has not sought an extension of time to respond to the questionnaire. The order and questionnaire have not be returned as undeliverable.

I recommend Kilgore's claims be dismissed on the grounds he has failed to prosecute this action and comply with the order of the court. *See* Fed. R. Civ. P. 41(b). **The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and**

specific to trigger de novo review by the district court.

DATED this 22nd day of February 2008.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE